

REMARKS

Reconsideration of this application is respectfully requested in view of the comments set forth below.

In the Official Action, claims 1, 2 and 16 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,240,918 to Ambrosio et al. ("*Ambrosio*"). Applicant respectfully traverses this rejection for the reasons set forth below.

Referring to claim 1, applicant submits that *Ambrosio* fails to teach each and every limitation of the claim. Claim 1 includes the requirement for "a linear channel communicating with the dispensing port and including a pressure relief port." The Examiner has referred to Fig. 5 and column 10, lines 35-50 of *Ambrosio* as teaching a dispensing port. Applicant assumes from this that the Examiner is referring to powder supply conduit 60 as the dispensing port. The Examiner also refers to powder retainer 186 as the pressure relief port, but does not define which elements of *Ambrosio* would constitute the linear channel communicating with the dispensing port. As applicant understands the Examiner's characterization of conduit 60 as a dispensing port and powder retainer 186 as a pressure relief port, applicant assumes that the Examiner would consider the side walls of recess 184 to constitute a linear channel as set forth in claim 1.

Even assuming that this characterization of *Ambrosio* is correct, and applicant does not concede this point at this juncture, the reference fails to teach the requirement in claim 1 for "a cup assembly movably received in the channel." In fact, applicant finds nothing in *Ambrosio* movably received in recess 184, except possibly for some powder medicament.

Moreover, *Ambrosio* fails to teach the requirement in claim 1 that the cup assembly include "a second sealing surface

adapted to seal the pressure relief port when the recess is aligned with the dispensing port and to unseal the pressure relief port when the recess is not aligned with the dispensing port." In accordance with applicant's understanding of the Examiner's interpretation of *Ambrosio*, applicant believes that the metering dose plate 180 of *Ambrosio* would constitute the cup assembly of claim 1. However, since powder retainer 186 travels with metering dose plate 180 (see, for example, column 14, lines 3-10 and 24-30), the metering dose plate simply cannot have both sealed and unsealed positions relative to the powder retainer. In other words, since the metering dose plate 180 travels with the powder retainer 186, it simply cannot have a surface adapted to seal the powder retainer when the recess of the powder retainer is aligned with the dispensing port. Rather than having a surface which seals and unseals the pressure relief port (i.e., the powder retainer 186), it appears from the Examiner's interpretation of *Ambrosio* that the metering dose plate 180 has a surface which seals and unseals the dispensing port 60.

In view of the foregoing, applicant submits that *Ambrosio* fails to teach each and every limitation of claim 1. Accordingly, applicant submits that claim 1 patentably distinguishes over *Ambrosio* such as to warrant its immediate allowance.

Claims 2 and 16 depend from claim 1 and include all of the limitations thereof. For at least this reason, applicant submits that claims 2 and 16 also patentably distinguish over *Ambrosio* and are in condition for allowance.

The Examiner has indicated that claims 3-15 and 17 are merely objected to, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In view of the above-noted remarks, however, applicant submits that claims 3-15 and 17 are

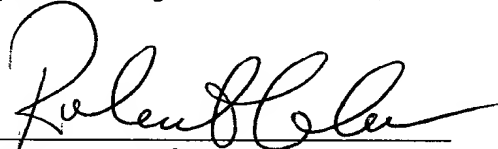
in condition for immediate allowance, at least by virtue of their dependency from claim 1. Accordingly, allowance of these claims is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited. If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 
Robert B. Cohen
Registration No.: 32,768
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant